

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT NEW YORK

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Louis Diaz, Gregory Korniloff and :
Jack Toal, on behalf of themselves : Civil Action No. 08-CV-00401 (CM)
and as representatives of the Class, :
 : *Electronically Filed*
Plaintiffs, :
 :
vs. : **AFFIDAVIT OF JOHN MORICI**
 :
NBC Universal, Inc., :
 :
Defendant. :
----- X

STATE OF CALIFORNIA)
 : ss.:
COUNTY OF LOS ANGELES)

John Morici, being duly sworn, deposes and says:

1. I am Senior Vice President and Chief Financial Officer of Universal Studios Home Entertainment LLC ("USHE"), which is an affiliated company of Universal City Studios LLLP ("Universal"), the entity that produced the film American Gangster. I am aware of the following facts either from my own personal knowledge or based upon my review of corporate records maintained in the ordinary course of business.

2. USHE has invested more than \$20 million to date to manufacture and package the DVD of American Gangster and arrange for its shipment to retailers across the United States, in advance of its national release date of February 19, 2008. More than 13 million discs have been pressed, most of them for inclusion in a two-disc DVD package. More than 3 million of these two-disc sets already have been packaged, and nearly 2 million such units already have been shipped to retailers. In addition, USHE has contractually committed more than \$14.5 million in

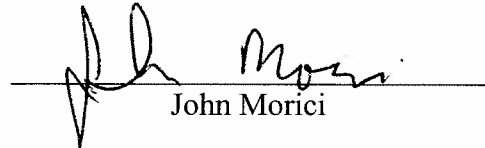
advertising expenditures and other marketing costs that are tied directly to the February 19 release date.

3. It would be extremely difficult, if not impossible, to recall copies of the American Gangster DVD that already have been shipped to retailers, and to do so would cause substantial financial and reputational injury to USHE. Among other things, USHE's retailers might demand reimbursement for their lost advertising investments. USHE also would suffer diminished goodwill and reputation among the retailers for instituting an eleventh-hour recall of a well-publicized DVD. Recalling the DVD would irreparably harm USHE's relationships with these retailers.

4. If USHE were enjoined from selling or distributing the DVD of American Gangster in its present format, USHE would be unable to recoup its expenses and would suffer a significant loss in income. The money invested to date in pressing, packaging and shipping the DVDs would be lost. If a modified version of the DVD were to be released, it would be necessary to re-edit the film itself, to prepare a new DVD master, to press and package millions of new discs, to arrange for their shipment to retailers, and to undertake a new marketing campaign linked to a new, later release date.

5. Inevitably, if distribution of the DVD were enjoined, USHE would miss out on the unique opportunity to release the DVD prior to the 2008 Academy Awards, scheduled for February 24, 2008, and to market the DVD in connection with that highly publicized event. (The film has been nominated for Academy Awards in the best supporting actress and art direction categories.) More generally, as time passes from a film's theatrical release, consumer interest in purchasing the DVD almost invariably declines. Accordingly, if the distribution and sale of the

DVD are enjoined, even temporarily, it is likely that USHE will suffer an overall loss of sales and income in connection with the DVD.


John Morici

State of California
County of Los Angeles

Subscribed and sworn to (or affirmed) before me on this 30th day of January, 2008, by

John F. Morici,

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Signature Rosanna Toth O'Brien (Seal)

